

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2014 APR 23 PM 2:37

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SHANE EDWARD CASEY,

Plaintiff,

v.

ANDREW PALLITO, GREG HALE,
DAN DAVIES, and KORY STONE,

Defendants.

Case No. 5:12-cv-284

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**
(Doc. 85, 89)

This matter came before the court for a review of the Magistrate Judge's March 31, 2014 Report and Recommendation ("R & R"). Plaintiff has filed a motion for summary judgment. (Doc. 85.) Defendant has not responded to the motion. Neither party has objected to the R & R, and the deadline for doing so has expired.

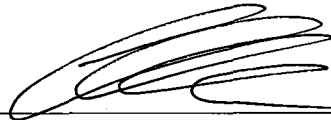
A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879 (1974).

In his R & R, the Magistrate Judge properly determined that Plaintiff's third motion for summary judgment (Doc. 85), filed before discovery has taken place, is premature. On that basis, the Magistrate Judge recommends the motion for summary judgment be denied without prejudice. Neither party has objected to the Magistrate Judge's recommendation which the court finds well-reasoned.

For the foregoing reasons, the court hereby ADOPTS the Magistrate Judge's R & R as the court's Order and Opinion, and DENIES Plaintiff's motion for summary judgment (Doc. 85) without prejudice.

SO ORDERED.

Dated at Rutland, in the District of Vermont, this 23rd day of April, 2014.

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form a cursive-like shape.

Christina Reiss, Chief Judge
United States District Court